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ART. I. — THE ANCIEN RÉGIME IN CANADA. 1663–1763.

I.

CANADIAN society was beginning to form itself, and at its base was the feudal tenure. European feudalism was the indigenous and natural growth of political and social conditions which preceded it. Canadian feudalism was an offshoot of the feudalism of France, modified by the lapse of centuries, and further modified by the royal will.

In France, as in the rest of Europe, the system had lost its vitality. The warrior-nobles who placed Hugh Capet on the throne, and began the feudal monarchy, formed an aristocratic republic, and the king was one of their number, whom they chose to be their chief. But through the struggles and vicissitudes of many succeeding reigns royalty had waxed and oligarchy had waned. The fact had changed and the theory had changed with it. The king, once powerless among a host of turbulent nobles, was now a king indeed. Once a chief, because his equals had made him so, he was now the anointed of the Lord. This triumph of royalty had culminated in Louis XIV. The stormy energies and bold individualism of the old feudal nobles had ceased to exist. They who had held his predecessors in awe had become his obsequious servants. He no longer feared his nobility; he prized them as gorgeous decorations of his court, and satellites of his royal person.

It was Richelieu who first planted feudalism in Canada.* The king would preserve it there, because with its teeth drawn he was fond of it, and because as the feudal tenure prevailed in Old France, it was natural that it should prevail also in the New. But he continued as Richelieu had begun, and moulded it to the form that pleased him. Nothing was left which could threaten his absolute and undivided authority over the colony. In France, a multitude of privileges and prescriptions still clung, despite its fall, about the ancient ruling class. Few of these were allowed to cross the Atlantic, while the old, lingering abuses, which had made the system odious, were at the same time lopped away. Thus retrenched, Canadian feudalism was made to serve a double end, — to produce a faint and harmless reflection of French aristocracy, and simply and practically to supply agencies for distributing land among the settlers.

The nature of the precautions which it was held to require appears in the plan of administration which Talon and Tracy laid before the Minister. They urge that, in view of the distance from France, special care ought to be taken to prevent changes and revolutions, aristocratic or otherwise, in the colony, whereby in time sovereign jurisdictions might grow up, as formerly occurred in various parts of France.† And, in respect to grants already made, an inquiry was ordered, to ascertain "if seigniors in distributing lands to their vassals have exacted any conditions injurious to the rights of the Crown and the subjection due solely to the king." In the same view the seignior was denied any voice whatever in the direction of government; and it is scarcely necessary to say that the essential feature of feudalism in the day of its vitality, the requirement of military service by the lord from the vassal, was utterly unknown in Canada. The royal governor called out the militia whenever he saw fit, and set over it what officers he pleased.

The seignior was usually the immediate vassal of the Crown, from which he had received his land gratuitously. In a few cases, he made grants to other seigniors inferior in the feudal

* By the charter of the Company of the Hundred Associates, 1627.

† *Projet de Règlement fait par MM. de Tracy et Talon pour la justice et la distribution des terres du Canada, Jan.* 24, 1667.

scale, and they, his vassals, granted in turn to their vassals, the *habitans* or cultivators of the soil.* Sometimes the *habitant* held directly of the Crown, in which case there was no step between the highest and lowest degrees of the feudal scale. The seignior held by the tenure of faith and homage, the *habitant* by the inferior tenure *en censive*. Faith and homage were rendered to the Crown or other feudal superior whenever the seigniory changed hands, or, in the case of seigniories held by corporations, after long stated intervals. The following is an example, drawn from the early days of the colony, of the performance of this ceremony by the owner of a fief to the seignior who had granted it to him. It is that of Jean Guion, vassal of Giffard, seignior of Beauport. The act recounts how, in presence of a notary, Guion presented himself at the principal door of the manor-house of Beauport; how, having knocked, one Boullé, farmer of Giffard, opened the door, and in reply to Guion's question if the seignior was at home, replied that he was not, but that he, Boullé, was empowered to receive acknowledgments of faith and homage from the vassals in his name. "After the which reply," proceeds the act, "the said Guion, being at the principal door, placed himself on his knees on the ground, with head bare, and without sword or spurs, and said three times these words: "Monsieur de Beauport, Monsieur de Beauport, Monsieur de Beauport, I bring you the faith and homage which I am bound to bring you on account of my fief Du Buisson, which I hold as a man of faith of your seigniory of Beauport, declaring that I offer to pay my seigniorial and feudal dues in their season, and demanding of you to accept me in faith and homage as aforesaid." †

* Most of the seigniories of Canada were simple fiefs; but there were some exceptions. In 1671, the king, as a mark of honor to Talon, erected his seigniory Des Islets into a barony; and it was soon afterwards made an earldom, *comté*. In 1676, the seigniory of St. Laurent, on the island of Orleans, once the property of Laval, and then belonging to François Berthelot, councillor of the king, was erected into an earldom. In 1681 the seigniory of Portneuf, belonging to René Robineau, chevalier, was made a barony. In 1700, three seigniories on the south side of the St. Lawrence were united into the barony of Longueuil. See *Papers on the Feudal Tenure in Canada, Abstract of Titles.*

† Ferland, *Notes sur les Registres de Notre Dame de Québec*, 65. This was a *fief en roture*, as distinguished from a *fief noble*, to which judicial powers and other privileges were attached.

The following instance is the more common one of a seignior holding directly of the Crown. It is widely separated from the first in point of time, having occurred a year after the army of Wolfe entered Quebec. Philippe Noël had lately died, and Jean Noël, his son, inherited his seigniory of Tilly and Bonsecours. To make the title good, faith and homage must be renewed. Jean Noël was under the bitter necessity of rendering this duty to General Murray, governor for the king of Great Britain. The form is the same as in the case of Guion, more than a century before. Noël repairs to the Government House at Quebec, and knocks at the door. A servant opens it. Noël asks if the governor is there. The servant replies that he is. Murray, informed of the visitor's object, comes to the door, and Noël then and there, "without sword or spurs, with bare head, and one knee on the ground," repeats the acknowledgment of faith and homage for his seigniory. He was compelled, however, to add a detested innovation, the oath of fidelity to his Britannic Majesty, coupled with a pledge to keep his vassals in obedience to the new sovereign.*

The seignior was a proprietor holding that relation to the feudal superior which, in its pristine character, has been truly described as servile in form, proud and bold in spirit. But in Canada this bold spirit was very far from being strengthened by the changes which the policy of the Crown had introduced into the system. The reservation of mines and minerals, oaks for the royal navy, roadways, and a site, if needed, for royal forts and magazines, had in them nothing extraordinary. The great difference between the position of the Canadian seignior and that of the vassal proprietor of the Middle Ages lay in the extent and nature of the control which the Crown and its officers held over him. A decree of the king, an edict of the Council, or an ordinance of the intendant, might at any moment change old conditions, impose new ones, interfere between him and his grantees, and modify or annul his bargains, past or present. He was never sure whether or not the government would let him alone, and against its most arbitrary intervention he had no remedy.

* See the act in *Observations de Sir L. H. Lafontaine, Bart., sur la Tenure Seigneuriale*, 217, note.

One condition was imposed on him which may be said to form the distinctive feature of Canadian feudalism, — that of clearing his land within a limited time on pain of forfeiting it. The object was the excellent one of preventing the lands of the colony from lying waste. As the seignior was often the penniless owner of a domain three or four leagues wide and proportionably deep, he could not clear it all himself, and was therefore under the necessity of placing the greater part in the hands of those who could. But he was forbidden to sell any part of it which he had not cleared. He must grant it without price, on condition of a small perpetual rent; and this brings us to the cultivator of the soil, the *censitaire*, the broad base of the feudal pyramid.*

The tenure *en censive* by which the *censitaire* held of the seignior consisted in the obligation to annual payments in money, produce, or both. In Canada these payments, known as *cens et rente*, were strangely diverse in amount and kind; but, in all the early period of the colony, they were almost ludicrously small. A common charge at Montreal was half a sou and half a pint of wheat for each arpent. The rate usually fluctuated in the early times between half a sou and two sous, so that a farm of a hundred and sixty arpents would pay from four to sixteen francs, of which a part would be in money and the rest in live capons, wheat, eggs, or all three together, in pursuance of contracts as amusing in their precision as they are bewildering in their variety. Live capons, estimated at twenty sous each, though sometimes not worth ten, form a con-

* The greater part of the grants made by the old company of New France were resumed by the Crown for neglect to occupy and improve the land, which was granted out anew under the administration of Talon. The most remarkable of these forfeited grants is that of the vast domain of La Citière, large enough for a kingdom. Lauson, afterwards governor, had obtained it from the company, but had failed to improve it. Two or three sub-grants which he had made from it were held valid; the rest was reunited to the royal domain. On repeated occasions at later dates, negligent seigniors were threatened with the loss of half or the whole of their land, and various cases are recorded in which the threat took effect. In 1741 an ordinance of the governor and intendant reunited to the royal domain seventeen seigniories at one stroke; but the former owners were told that if within a year they cleared and settled a reasonable part of the forfeited estates, the titles should be restored to them. (*Edits et Ordonnances*, II. 555.) In the case of the *habitant* or *censitaire*, forfeitures for neglect to improve the land and live on it are very numerous.

spicuous feature in these agreements, so that on pay-day the seignior's barn-yard presented an animated scene. Later in the history of the colony grants were at somewhat higher rates. Payment was commonly made on St. Martin's day, when there was a general muster of tenants at the seigniorial mansion, with a prodigious consumption of tobacco and a corresponding retail of neighborhood gossip, joined to the outcries of the captive fowls bundled together for delivery, with legs tied, but throats at full liberty.

A more considerable but a very uncertain source of income to the seignior were the *lods et ventes*, or mutation fines. The land of the *censitaire* passed freely to his heirs; but if he sold it, a twelfth part of the purchase-money must be paid to the seignior. The seignior, on his part, was equally liable to pay a mutation fine to his feudal superior if he sold his seigniory; and for him the amount was larger, being a *quint*, or a fifth of the price received, of which, however, the greater part was deducted for immediate payment. This heavy charge, constituting, as it did, a tax on all improvements, was a principal cause of the abolition of the feudal tenure in 1854.

The obligation of clearing his land and living on it was laid on seignior and *censitaire* alike; but the latter was under a variety of other obligations to the former, partly imposed by custom and partly established by agreement when the grant was made. To grind his grain at the seignior's mill, bake his bread in the seignior's oven, work for him one or more days in the year, and give him one fish in every eleven for the privilege of fishing in the river before his farm, — these were the most annoying of the conditions to which the *censitaire* was liable. Few of them were enforced with much regularity. That of baking in the seignior's oven was rarely carried into effect, though occasionally used for purposes of extortion. It is here that the royal government appears in its true character, so far as concerns its relations with Canada, that of a well-meaning despotism. It continually intervened between *censitaire* and seignior, on the principle that "as his Majesty gives the land for nothing, he can make what conditions he pleases, and change them when he pleases." * These interventions were

* This doctrine is laid down in a letter of the Marquis de Beauharnois, governor, to the Minister, 1734.

usually favorable to the *censitaire*. On one occasion an intendant reported to the Minister that in his opinion all rents ought to be reduced to one sou and one live capon for every arpent of front, equal in most cases to forty superficial arpents.* Everything, he remarks, ought to be brought down to the level of the first grants "made in days of innocence," a happy period which he does not attempt to define. The Minister replies that the diversity of the rent is, in fact, vexatious, and that, for his part, he is disposed to abolish it altogether.† Neither he nor the intendant gives the slightest hint of any compensation to the seignior. Though these radical measures were not executed, many changes were decreed from time to time in the relations between seignior and *censitaire*, sometimes as a simple act of sovereign power, and sometimes on the ground that the grants had been made with conditions not recognized by the *Coutume de Paris*. This was the code of law assigned to Canada; but most of the contracts between seignior and *censitaire* had been agreed upon in good faith by men who knew as much of the *Coutume de Paris* as of the Capitularies of Charlemagne, and their conditions had remained in force unchallenged for generations. These interventions of government sometimes contradicted each other and often proved a dead letter. They are more or less active through the whole period of the French rule.

The seignior had judicial powers, which, however, were carefully curbed and controlled. His jurisdiction, when exercised at all, extended in most cases only to trivial causes. He very rarely had a prison, and seems never to have abused it. The dignity of a seigniorial gallows with *high justice* or jurisdiction over heinous offences was granted only in three or four instances.‡

Four arpents in front by forty in depth were the ordinary dimensions of a grant *en censive*. These ribbons of land, nearly a mile and a half long, with one end on the river and the other on the uplands behind, usually combined the advantages

* *Lettre de Raudot, père, au Ministre*, 10 *Nov.*, 1707.

† *Lettre de Ponchartrain à Raudot, père*, 13 *Juin*, 1708.

‡ Baronies and *comtés* were empowered to set up gallows and pillories, to which the arms of the owner were affixed. See, for example, the edict creating the Barony des Islets.

of meadows for cultivation and forests for timber and firewood. So long as the *censitaire* brought in on St. Martin's day his yearly capons and his yearly handful of copper, his title against the seignior was perfect. There are farms in Canada which have passed from father to son for two hundred years. The condition of the cultivator was incomparably better than that of the French peasant, crushed by taxes and oppressed by feudal burdens far heavier than those of Canada. In fact, the Canadian settler scorned the name of peasant, and then, as now, was always called the *habitant*. The government held him in wardship, watched over him, interfered with him, but did not oppress him nor allow others to oppress him. Canada was not governed to the profit of a class, and if the king wished to create a Canadian *noblesse* he took care that it should not bear hard on the country.*

Under a genuine feudalism, the ownership of land conferred nobility; but all this was changed. The king, and not the soil, was now the parent of honor. France swarmed with landless nobles, while *roturier* land-holders grew daily more numerous. In Canada half the seigniories were in *roturier* or plebeian hands, and in course of time some of them came into possession of persons on very humble degrees of the social scale. A seigniory could be bought and sold, and a trader or a thrifty *habitant* might, and often did, become the buyer.† If the Canadian noble was always a seignior, it is far from being true that the Canadian seignior was always a noble.

In France, it will be remembered, nobility did not in itself

* On the seigniorial tenure, I have examined the whole of the mass of papers printed at the time when the question of its abolition was under discussion. A great deal of legal research and learning was then devoted to the subject. The argument of Mr. Dunkin in behalf of the seigniors, and the observations of Judge Lafontaine, are especially instructive, as is also the collected correspondence of the governors and intendants with the central government, on matters relating to the seigniorial system.

† In 1712 the engineer Catalogne made a very long and elaborate report on the condition of Canada, with a full account of all the seigniorial estates. Of ninety-one seigniories, fiefs, and baronies described by him, ten belonged to merchants, twelve to laborers, and two to masters of small river craft. The rest belonged to religious corporations, members of the Council, judges, officials of the Crown, widows, and discharged officers or their sons.

imply a title. Besides its titled leaders, it had its rank and file, numerous enough to form a considerable army. Under the later Bourbons, the penniless young nobles were, in fact, enrolled into regiments, turbulent, difficult to control, obeying officers of high rank, but scorning all others, and conspicuous by a fiery and impetuous valor which on more than one occasion turned the tide of victory. The *gentilhomme*, or untitled noble, had a distinctive character of his own, gallant, punctilious, vain; skilled in social and sometimes in literary and artistic accomplishments, but usually ignorant of most things except the handling of his rapier. Yet there were striking exceptions; and to say of him, as has been said, that "he knew nothing but how to get himself killed," is hardly just to a body which has produced some of the best writers and thinkers of France.

Sometimes the origin of his nobility was lost in the mists of time; sometimes he owed it to a patent from the king. In either case, the line of demarcation between him and the classes below him was perfectly distinct; and in this lies an essential difference between the French *noblesse* and the English gentry, a class not separated from others by a definite barrier. The French *noblesse*, unlike the English gentry, constituted a caste.

The *gentilhomme* had no vocation for emigrating. He liked the army and he liked the court. If he could not be of it, it was something to live in its shadow. The life of a backwoods settler had no charm for him. He was not used to labor; and he could not trade, at least in retail, without becoming liable to forfeit his nobility. When Talon came to Canada, there were but four noble families in the colony.* Young nobles in abundance came out with De Tracy, but they went home with him. Where, then, should be found the material of a Canadian *noblesse?* First, in the regiment of Carignan, of which most of the officers were *gentilshommes;* secondly, in the issue of patents of nobility to a few of the more prominent colonists. De Tracy asked for four such patents; Talon asked for five

* Talon, *Mémoire sur l'Etat présent du Canada*, 1667. The families of Repentigny, Tilly, Poterie, and D'Aillebout appear to be meant.

more ;* and such requests were repeated at intervals by succeeding governors and intendants, in behalf of those who had gained their favor by merit or otherwise. Money smoothed the path to advancement, so far had *noblesse* already fallen from its old estate. Thus Jacques Le Ber, the merchant, who had long kept a shop at Montreal, got himself made a gentleman for six thousand livres. †

All Canada soon became infatuated with *noblesse;* and country and town, merchant and seignior, vied with each other for the quality of *gentilhomme.* If they could not get it, they often pretended to have it, and aped its ways with the zeal of Monsieur Jourdain himself. "Everybody here," writes the intendant De Meulle, "calls himself *Esquire*, and ends with thinking himself a gentleman." Successive intendants repeat this complaint. The case was worst with *roturiers* who had acquired seigniories. Thus Noel Langlois was a good carpenter till he became owner of a seigniory, on which he grew lazy and affected to play the gentleman. The real *gentilshommes*, as well as the spurious, had their full share of official stricture. The governor, Denonville, speaks of them thus: "Several of them have come out this year with their wives, who are very much cast down; but they play the fine lady, nevertheless. I had much rather see good peasants; it would be a pleasure to me to give aid to such, knowing, as I should, that within two years their families would have the means of living at ease; for it is certain that a peasant who can and will work is well off in this country, while our nobles with nothing to do can never be anything but beggars. Still they ought not to be driven off or abandoned. The question is how to maintain them." ‡

The intendant, Du Chesneau, writes to the same effect: "Many of our *gentilshommes*, officers, and other owners of seigniories, lead what in France is called the life of a country gentleman, and spend most of their time in hunting and

* De Tracy's request was in behalf of Bourdon, Boucher, D'Auteuil, and Juchereau. Talon's was in behalf of Godefroy, Le Moyne, Denis, Amiot, and Couillard.

† Faillon, *Vie de Mademoiselle Le Ber*, 325.

‡ *Lettre de Denonville au Ministre*, 10 *Nov.*, 1686.

fishing. As their requirements in food and clothing are greater than those of the simple *habitans*, and as they do not devote themselves to improving their land, they mix themselves up in trade, run in debt on all hands, incite their young *habitans* to range the woods, and send their own children there to trade for furs in the Indian villages and in the depths of the forest, in spite of the prohibition of his Majesty. Yet, with all this, they are in miserable poverty." *

Their condition, indeed, was often deplorable. "It is pitiful," says the intendant, Champigny, "to see their children, of which they have great numbers, passing all summer with nothing on them but a shirt, and their wives and daughters working in the fields." † In another letter he asks aid from the king for Repentigny with his thirteen children, and for Tilly with his fifteen. "We must give them some corn at once," he says, "or they will starve." ‡ These were two of the original four noble families of Canada. The family of D'Aillebout, another of the four, is described as equally destitute. "Pride and sloth," says the same intendant, "are the great faults of the people of Canada, and especially of the nobles and those who pretend to be such. I pray you grant no more letters of nobility, unless you want to multiply beggars." § The governor, Denonville, is still more emphatic: "Above all things, monseigneur, permit me to say that the nobles of this new country are everything that is most beggarly, and that to increase their number is to increase the number of do-nothings. A new country requires hard workers, who will handle the axe and mattock. The sons of our councillors are no more industrious than the nobles; and their only resource is to take to the woods, trade a little with the Indians, and, for the most part, fall into the disorders of which I have had the honor to inform you. I shall use all possible means to induce them to engage in regular commerce; but as our nobles and councillors are all very poor and weighed down with debt, they could not get

* *Lettre de Du Chesneau au Ministre*, 10 *Nov.*, 1679.

† *Lettre de Champigny au Ministre*, 26 *Août*, 1687.

‡ Ibid., 6 *Nov.*, 1687.

§ *Mémoire instructif sur le Canada, joint à la lettre de M. de Champigny du* 10 *May*, 1691.

credit for a single crown piece." * "Two days ago," he writes in another letter, "Monsieur de St. Ours, a gentleman of Dauphiny, came to me to ask leave to go back to France in search of bread. He says that he will put his ten children into the charge of any who will give them a living, and that he himself will go into the army again. His wife and he are in despair; and yet they do what they can. I have seen two of his girls reaping grain and holding the plough. Other families are in the same condition. They come to me with tears in their eyes. All our married officers are beggars; and I entreat you to send them aid. There is need that the king should provide support for their children, or else they will be tempted to go over to the English." † Again he writes that the sons of the councillor D'Amours have been arrested as *coureurs de bois*, or outlaws in the bush; and that if the Minister does not do something to help them, there is danger that all the sons of the *noblesse*, real or pretended, will turn bandits, since they have no other means of living.

The king, dispenser of charity for all Canada, came promptly to the rescue. He granted an alms of a hundred crowns to each family, coupled with a warning to the recipients of his bounty that "their misery proceeds from their ambition to live as persons of quality and without labor." ‡ At the same time, the Minister announced that no more letters of nobility would be granted in Canada; adding, "to relieve the country of some of the children of those who are really noble, I send you (the governor) six commissions of *Gardes de la Marine*, and recommend you to take care not to give them to any who are not actually *gentilshommes*." The *Garde de la Marine* answered to the midshipman of the English or American service. As the six commissions could bring little relief to the crowd of needy youths, it was further ordained that sons of nobles or persons living as such should be enrolled into companies at eight sous a day for those who should best conduct themselves, and six sous a day for the others. Nobles in Canada were

* *Lettre de Denonville au Ministre*, 13 *Nov.*, 1685.

† *Lettre de Denonville au Ministre*, 10 *Nov.*, 1686. (Condensed in the translation.)

‡ *Abstract of Denonville's Letters, and of the Minister's Answers*, in Brodhead, IX. 317, 318.

also permitted to trade, even at retail, without derogating from their rank.*

They had already assumed this right, without waiting for the royal license; but thus far it had profited them little. The *gentilhomme* was not a good shopkeeper, nor, as a rule, was the shopkeeper's vocation very lucrative in Canada. The domestic trade of the colony was small; and all trade was exposed to such vicissitudes from the intervention of intendants, ministers, and councils, that at one time it was almost banished. At best, it was carried on under conditions auspicious to a favored few and withering to the rest. Even when most willing to work, the position of the *gentilhomme* was a painful one. Unless he could gain a post under the Crown, which was rarely the case, he was as complete a political cipher as the meanest *habitant*. His rents were practically nothing, and he had no capital to improve his seigniorial estate. By a peasant's work he could gain a peasant's living, and this was all. The prospect was not inspiring. His long initiation of misery was the natural result of his position and surroundings; and it is no matter of wonder that he threw himself into the only field of action which in time of peace was open to him. It was trade, but trade seasoned by adventure and ennobled by danger; defiant of edict and ordinance, outlawed, conducted in arms among forests and savages, — in short, it was the Western fur-trade. The tyro was likely to fail in it at first, but time and experience formed him to the work. On the Great Lakes, in the wastes of the Northwest, on the Mississippi and the plains beyond, we find the roving *gentilhomme* chief of a gang of bushrangers, often his own *habitans;* sometimes proscribed by the government, sometimes leagued in contraband traffic with its highest officials, a hardy vidette of civilization, tracing unknown streams, piercing unknown forests, trading, fighting, negotiating, and building forts. Again we find him on the shores of Acadia or Maine, surrounded by Indian retainers, a menace and a terror to the neighboring English colonist. St. Castin, Du Lhut, La Durantaye, La Salle, La Motte-Cardillac, Iberville, Bienville, La Vérendrye, are names

* *Lettre de De Meulle au Ministre*, 1685.

that stand conspicuous on that page of half-savage romance that refreshes the hard and practical annals of American colonization. But a more substantial debt is due to their memory. It was they, and such as they, who discovered the Ohio, explored the Mississippi to its mouth, discovered the Rocky Mountains, and founded Detroit, St. Louis, and New Orleans.

Even in his earliest day the *gentilhomme* was not always in the evil plight where we have found him. There were a few exceptions to the general misery, and the chief among them is that of the Le Moynes of Montreal. Charles Le Moyne, son of an innkeeper of Dieppe and founder of a family the most truly eminent in Canada, was a man of sterling qualities who had been long enough in the colony to learn how to live there.* Others learned the same lesson at a later day, adapted themselves to soil and situation, took root, grew, and became more Canadian than French. As population increased, their seigniories began to yield appreciable returns, and their reserved domains became worth cultivating. A future dawned upon them; they saw in hope their names, their seigniorial estates, their manor-houses, their tenantry, passing to their children and their children's children. The beggared noble of the early time became a sturdy country gentleman; poor, but not wretched; ignorant of books, except possibly a few scraps of rusty Latin picked up in a Jesuit school; hardy as the hardiest woodsman, yet never forgetting his quality of *gentilhomme;* scrupulously wearing its badge, the sword, and copying as well as he could the fashions of the court, which glowed on his vision across the sea in all the effulgence of Versailles, and beamed with reflected ray from the château of Quebec. He was at home among his tenants, at home among the Indians, and never more at home than when, a gun in his hand and a crucifix on his breast, he took the war-path with a crew of painted savages and Frenchmen almost as wild, and pounced like a lynx from the forest on some lonely farm or outlying hamlet of New England. How New England hated him, let her records tell. The reddest blood-streaks on her old annals mark the track of the Canadian *gentilhomme.*

* Berthelot, proprietor of the *comté* of St. Laurent, and Robineau, of the barony of Portneuf, may also be mentioned as exceptionally prosperous.

II.

The government of Canada was formed in its chief features after the government of a French province. Throughout France the past and the present stood side by side. The kingdom had a double administration; or, rather, the shadow of the old administration and the substance of the new. The government of provinces had long been held by the high nobles, often kindred to the Crown; and hence, in former times, great perils had arisen, amounting during the civil wars to the danger of dismemberment. The high nobles were still governors of provinces; but here, as elsewhere, they had ceased to be dangerous. Titles, honors, and ceremonial they had in abundance; but they were deprived of real power. Close beside them was the royal intendant, an obscure figure, lost amid the vainglories of the feudal sunset, but in the name of the king holding the reins of government, — a check and a spy on his gorgeous colleague. He was the king's agent; of modest birth, springing from the legal class, owing his present to the king, and dependent on him for his future, learned in the law and trained to administration. It was by such instruments that the powerful centralization of the monarchy enforced itself throughout the kingdom, and, penetrating beneath the crust of old prescriptions, supplanted without seeming to supplant them. The courtier noble looked down in the pride of rank on the busy man in black at his side; but this man in black, with the troop of officials at his beck, controlled finance, the royal courts, public works, and all the administrative business of the province.

The governor-general and the intendant of Canada answered to those of a French province. The governor, excepting in the earliest period of the colony, was a military noble; in most cases bearing a title and sometimes of high rank. The intendant, as in France, was usually drawn from the *gens de robe*, or legal class.* The mutual relations of the two officers were

* The governor was styled, in his commission, *Gouverneur et Lieutenant-Général en Canada, Acadie, Isle de Terreneuve, et autres pays de la France Septentrionale;* and the intendant, *Intendant de la Justice, Police, et. Finances en Canada, Acadie, Terreneuve, et autres pays de la France Septentrionale.*

modified by the circumstances about them. The governor was superior in rank to the intendant; he commanded the troops, conducted relations with foreign colonies and Indian tribes, and took precedence on all occasions of ceremony. Unlike a provincial governor in France, he had great and substantial power. The king and the Minister, his sole masters, were a thousand leagues distant, and he controlled the whole military force. If he abused his position, there was no remedy but in appeal to the Court, which alone could hold him in check. There were local governors at Montreal and Three Rivers, but their power was carefully curbed, and they were forbidden to fine or imprison any person without authority from Quebec.*

The intendant was virtually a spy on the governor-general, of whose proceedings and of everything else that took place he was required to make report. Every year he wrote to the Minister of State one, two, three, or four letters, often forty or fifty pages long, filled with the secrets of the colony, political and personal, great and small, set forth with a minuteness often interesting, often instructive, and often excessively tedious.† The governor, too, wrote letters of pitiless length; and each of the colleagues was jealous of the letters of the other. In truth, their relations to each other were so critical, and perfect harmony so rare, that they might almost be described as natural enemies. The Court, it is certain, did not desire their perfect accord; nor, on the other hand, did it wish them to quarrel; it aimed to keep them on such terms that without deranging the machinery of administration, each should be a check on the other.‡

The governor, the intendant, and the Supreme Council or Court were absolute masters of Canada under the pleasure of the king. Legislative, judicial, and executive power, all cen-

* The Sulpitian seigniors of Montreal claimed the right of appointing their own local governor. This was denied by the Court, and the excellent Sulpitian governor, Maisonneuve, was removed by De Tracy, to die in patient obscurity at Paris. Some concessions were afterwards made in favor of the Sulpitian claims.

† I have carefully read about two thousand pages of these letters.

‡ The governor and intendant made frequent appeals to the Court to settle questions arising between them. Several of these appeals are preserved. The king wrote replies on the margin of the paper, but they were usually too curt and general to satisfy either party.

tred in them. We have seen already the very unpromising beginnings of the Supreme Council. It had consisted at first of the governor, the bishop, and five councillors chosen by them. The intendant was soon added to form the ruling triumvirate; but the appointment of the councillors, the occasion of so many quarrels, was afterwards exercised by the king himself.* Even the name of the Council underwent a change in the interest of his autocracy, and he commanded that it should no longer be called the *Supreme*, but only the *Superior* Council. The same change had just been imposed on all the high tribunals of France.† Under the shadows of the *fleur-de-lis*, the king alone was to be supreme.

In 1675 the number of councillors was increased to seven, and in 1703 it was again increased to twelve, but the character of the Council or Court remained the same. It issued decrees for the civil, commercial, and financial government of the colony, and gave judgment in civil and criminal causes according to the royal ordinances and the *Coutume de Paris*. It exercised also the function of registration borrowed from the Parliament of Paris. That body, it will be remembered, had no analogy whatever with the English Parliament. Its ordinary functions were not legislative, but judicial, and it was composed of judges hereditary under certain conditions. Nevertheless, it had long acted as a check on the royal power through its right of registration. No royal edict had the force of law till entered upon its books, and this custom had so deep a root in the monarchical constitution of France, that even Louis XIV., in the flush of his power, did not attempt to abolish it. He did better; he ordered his decrees to be registered, and the humble Parliament submissively obeyed. In like manner all edicts, ordinances, or declarations relating to Canada were entered on the registers of the Superior Council at Quebec. The order of registration was commonly affixed

* *Declaration du Roi du 16me Juin*, 1703. Appointments were made by the king many years earlier. As they were always made on the recommendation of the governor and intendant, the practical effect of the change was merely to exclude the bishop from a share in them. The West India Company made the nominations during the ten years of its ascendancy.

† Cheruel, *Administration Monarchique en France*, II. 100.

to the edict or other mandate, and nobody dreamed of disobeying it.*

The Council or Court had its attorney-general, who heard complaints and brought them before the tribunal if he thought necessary; its secretary, who kept its registers; and its *huissiers*, or attendant officers. It sat once a week, and, though it was the highest court of appeal, it exercised at first original jurisdiction in very trivial cases.† It was empowered to establish subordinate courts or judges throughout the colony. Besides these there was a judge appointed by the king for each of the three districts into which Canada was divided, those of Quebec, Three Rivers, and Montreal. To each of the three royal judges was joined a clerk and an attorney-general under the supervision and control of the attorney-general of the Superior Court, to which tribunal appeal lay from all the subordinate jurisdictions. The jurisdiction of the seigniors within their own limits has already been mentioned. They were entitled by the terms of their grants to the exercise of "high, middle, and low justice"; but most of them were practically restricted to the last of the three, that is, to petty disputes between the *habitans*, involving not more than sixty sous, or offences for which the fine did not exceed ten sous.‡ Thus limited, their judgments were often useful in saving time, trouble, and money to the disputants. The corporate seigniors of Montreal long continued to hold a feudal court in form, with attorney-general, clerk, and *huissier;* but very few other seigniors were in a condition to imitate them. Added to all these tribunals was the bishop's court at Quebec to try causes held to be within the province of the Church.

The office of judge in Canada was no sinecure. The people were of a litigious disposition, partly from their Norman blood, partly, perhaps, from the idleness of the long and tedious winter, which gave full leisure for gossip and quarrel, and partly from

* Many general edicts relating to the whole kingdom are also registered on the books of the Council, but the practice in this respect was by no means uniform.

† See the *Régistres du Conseil Supérieur*, preserved at Quebec. Between 1663 and 1673 are a multitude of judgments on matters great and small; from murder, rape, and infanticide, down to petty nuisances, misbehavior of servants, and disputes about the price of a sow.

‡ *Histoire du Droit Canadien*, 135.

the very imperfect manner in which titles had been drawn and the boundaries of grants marked out, whence ensued disputes without end between neighbor and neighbor.

"I will not say," writes the caustic La Hontan, "that Justice is more chaste and disinterested here than in France, but at least if she is sold she is sold cheaper. We do not pass through the clutches of advocates, the talons of attorneys, and the claws of clerks. These vermin do not infest Canada yet. Everybody pleads his own cause. Our Themis is prompt, and she does not bristle with fees, costs, and charges. The judges have only four hundred francs a year, a great temptation to look for law in the bottom of the suitor's purse. Four hundred francs! Not enough to buy a cap and gown, so these gentry never wear them."*

Thus far La Hontan. Now let us hear the king himself. "The greatest disorder which has hitherto existed in Canada," writes Louis XIV. to the intendant, De Meulle, "has come from the small degree of liberty which the officers of justice have had in the discharge of their duties, by reason of the violence to which they have been subjected, and the part they have been obliged to take in the continual quarrels between the governor and the intendant; insomuch that justice having been administered by cabal and animosity, the inhabitants have hitherto been far from the tranquillity and repose which cannot be found in a place where everybody is compelled to take side with one party or another."†

Nevertheless, on ordinary local questions between the *habitans*, justice seems to have been administered on the whole fairly; and judges of all grades often interposed in their personal capacity to bring parties to an agreement without a trial. From head to foot, the government kept its attitude of paternity.

Beyond and above all the regular tribunals, beyond and above the Council itself, was the independent jurisdiction lodged in the person of the king's man, the intendant. His commission empowered him, if he saw fit, to call any cause

* La Hontan, I. 21 (ed. 1705). In some editions, the above is expressed in different language.

† *Instruction du Roy pour le Sieur De Meulle*, 1682.

whatever before himself for judgment; and he judged exclusively the cases which concerned the king, and those involving the relations of seignior and vassal.* He appointed subordinate judges from whom there was appeal to him; but from his decisions, as well as from those of the Superior Council, there was no appeal but to the king in his Council of State.

On any Monday morning one would have found the Superior Council in session in the antechamber of the governor's apartment, at the Château St. Louis. They sat at a round table. At the head was the governor, with the bishop on his right and the intendant on his left. The councillors sat in the order of their appointment, and the attorney-general also had his place at the board. As La Hontan says, they were not in judicial robes but in their ordinary dress, and all but the bishop wore swords.† The want of the cap and gown greatly disturbed the intendant De Meulle, and he begs the Minister to consider how important it is that the councillors, in order to inspire respect, should appear in public in long black robes, which on occasions of ceremony they should exchange for robes of red. He thinks that the principal persons of the colony would thus be induced to train up their children to so enviable a dignity; "and," he concludes, "as none of the councillors can afford to buy red robes, I hope that the king will vouchsafe to send out nine such. As for the black robes, they can furnish those themselves."‡ The king did not respond, and the nine robes never arrived.

The official dignity of the Council was sometimes exposed to trials against which even red gowns might have proved an insufficient protection. The same intendant urges that the tribunal ought to be provided immediately with a house of its own. "It is not decent," he says, "that it should sit in the governor's antechamber any longer. His guards and valets make such a noise that we cannot hear each other speak. I have continually to tell them to keep quiet, which causes them to make a thousand jokes at the councillors as they pass in and out."§ As the governor and the Council were often on ill

* See the commissions of various intendants, in *Edits et Ordonnances*, III.

† Compare La Poterie, I. 260, and La Tour, *Vie de Laval*, Liv. VII.

‡ *De Meulle au Ministre*, 28 *Sept.*, 1685.

§ *De Meulle au Ministre*, 12 *Nov.*, 1684.

terms, the official head of the colony could not always be trusted to keep his attendants on their good behavior. The Minister listened to De Meulle's complaint, and adopted his suggestion that the government should buy the old brewery of Talon, a large structure of mingled timber and masonry on the banks of the St. Charles. It was at an easy distance from the château; passing the Hôtel Dieu and descending the rock, one reached it by a walk of a few minutes. It was accordingly repaired, partly rebuilt, and fitted up to serve the double purpose of a lodging for the intendant and a court-house. Henceforth the transformed brewery was known as the Palace of the Intendant, or the Palace of Justice; and here the Council and inferior courts long continued to hold their sessions.

Some of these inferior courts appear to have needed a lodging quite as much as the Council. The watchful De Meulle informs the Minister that the royal judge for the district of Quebec was accustomed in winter, with a view to saving fuel, to hear causes and pronounce judgment by his own fireside, in the midst of his children, whose gambols disturbed the even distribution of justice.*

The Superior Council was not a very harmonious body. As its three chiefs, the man of the sword, the man of the Church, and the man of the law, were often at variance, the councillors attached themselves to one party or the other, and hot disputes sometimes ensued. The intendant, though but third in rank, presided at the sessions, took votes, pronounced judgment, signed papers, and called special meetings. This matter of the presidency was for some time a source of contention between him and the governor, till the question was set at rest by a decree of the king.

The intendants in their reports to the Minister do not paint the Council in flattering colors. One of them complains that the councillors, being busy with their farms, neglect their official duties. Another says that they are all more or less in trade. A third calls them uneducated persons of slight account, allied to the chief families and chief merchants in Canada, in whose interest they make laws; and he adds that

* *De Meule au Ministre*, 12 *Nov.*, 1684.

as a year and a half or even two years usually elapse before the answer to a complaint is received from France, they take advantage of this long interval to the injury of the king's service.* These and other similar charges betray the continual friction between the several branches of the government.

The councillors were rarely changed, and they usually held office for life. In a few cases the king granted to the son of a councillor yet living the right of succeeding his father when the charge should become vacant.† It was a post of honor and not of profit, at least of direct profit. The salaries were very small and coupled with a prohibition to receive fees.

Judging solely by the terms of his commission, the intendant was the ruling power in the colony. He controlled all expenditure of public money, and not only presided at the Council but was clothed in his own person with independent legislative as well as judicial power. He was authorized to issue ordinances having the force of law whenever he thought necessary, and, in the words of his commission, "to order everything as he shall see just and proper."‡ He was directed to be present at councils of war, though war was the special province of his colleague, and to protect soldiers and all others from official extortion and abuse; that is, to protect them from the governor. Yet there were practical difficulties in the way of his apparent power. The king, his master, was far away, but official jealousy was busy around him, and his patience was sometimes put to the proof. Thus the royal judge of Quebec had fallen into irregularities. "I can do nothing with him," writes the intendant; "he keeps on good terms with the governor and Council and sets me at naught." The governor had, as he thought, treated him amiss. "You have told me," he writes to the Minister, "to bear everything from him and report to you"; and he proceeds to recount his grievances. Again, "the attorney-general is bold to insolence, and needs

* *De Meulle au Ministre*, 12 *Nov.*, 1684.

† A son of D'Amours was named in his father's lifetime to succeed him, as was also a son of the Attorney-General, D'Auteuil. There are several other cases. A son of Tilly, to whom the right of succeeding his father had been granted, asks leave to sell it to the merchant La Chesnaye.

‡ Commissions of Bouteroue, Du Chesneau, De Meulle, etc.

to be repressed. The king's interposition is necessary." He modestly adds that the intendant is the only man in Canada whom his Majesty can trust, and that he ought to have more power.*

These were far from being his only troubles. The enormous powers with which his commission clothed him were sometimes retrenched by contradictory instructions from the king; † for this government, not of laws but of arbitrary will, is marked by frequent inconsistencies. When he quarrelled with the governor, and the governor chanced to have strong friends at Court, his position became truly pitiable. He was berated as an imperious master berates an offending servant. "Your last letter is full of nothing but complaints." "You have exceeded your authority." "Study to know yourself and to understand clearly the difference there is between a governor and an intendant." "Since you fail to comprehend the difference between you and the officer who represents the king's person, you are in danger of being often condemned, or rather of being recalled, for his Majesty cannot endure so many petty complaints, founded on nothing but a certain *quasi* equality between the governor and you, which you assume, but which does not exist." "Meddle with nothing beyond your functions." "Take good care to tell me nothing but the truth." "You ask too many favors for your adherents." "You must not spend more than you have authority to spend, or it will be taken out of your pay." In short, there are several letters from the Minister Colbert to his colonial man-of-all-work, which, from beginning to end, are one continued scold.‡

The luckless intendant was liable to be held to account for the action of natural laws. "If the population does not increase in proportion to the pains I take," writes the king to Du Chesneau, "you are to lay the blame on yourself for not

* *De Meulle au Ministre*, 12 *Nov.*, 1684.

† Thus, De Meulle is flatly forbidden to compel litigants to bring causes before him (*Instruction pour le Sieur De Meulle*, 1682), and this prohibition is nearly of the same date with the commission in which the power to do so is expressly given him.

‡ The above examples are all taken from the letters of Colbert to the intendant, Du Chesneau. Other intendants are occasionally treated with scarcely more ceremony.

having executed my principal order (*to promote marriages*) and for having failed in the principal object for which I sent you to Canada." *

A great number of ordinances of intendants are preserved. They were usually read to the people at the doors of churches after mass, or sometimes by the *curé* from his pulpit. They relate to a great variety of subjects, — regulation of inns and markets, poaching, preservation of game, sale of brandy, rent of pews, stray hogs, mad dogs, tithes, matrimonial quarrels, fast driving, wards and guardians, weights and measures, nuisances, value of coinage, trespass on lands, building churches, observance of Sunday, preservation of timber, seignior and vassal, settlement of boundaries, and many other matters. If a *curé* with some of his parishioners reported that his church or his house needed repair or rebuilding, the intendant issued an ordinance requiring all the inhabitants of the parish, "both those who have consented and those who have not consented," to contribute materials and labor, on pain of fine or other penalty.† The militia captain of the *côte* was to direct the work and see that each parishioner did his due part, which was determined by the extent of his farm; so, too, if the *grand voyer*, an officer charged with the superintendence of highways, reported that a new road was wanted or that an old one needed mending, an ordinance of the intendant set the whole neighborhood at work upon it, directed, as in the other case, by the captain of militia. If children were left fatherless, the intendant ordered the *curé* of the parish to assemble their relations or friends for the choice of a guardian. If a *censitaire* did not clear his land and live on it, the intendant took it from him and gave it back to the seignior.‡

Chimney-sweeping having been neglected at Quebec, the intendant commands all householders promptly to do their duty in this respect, and at the same time fixes the pay of the sweep at six sous a chimney. Another order forbids quarrelling in church. Another assigns pews in due order of precedence to

* *Le Roi à Du Chesneau*, 11 *Juin*, 1680.

† See, among many examples, the ordinance of 24th December, 1715, *Edits et Ordonnances*, II. 443.

‡ Compare the numerous ordinances printed in the second and third volumes of *Edits et Ordonnances*.

the seignior, the captain of militia, and the wardens. The Intendant Raudot, who seems to have been inspired even more than the others with the spirit of paternal intervention, issued a mandate to the effect that, whereas the people of Montreal raise too many horses, which prevents them from raising cattle and sheep, "being therein ignorant of their true interest, ... now, therefore, we command that each inhabitant of the *côtes* of this government shall hereafter own no more than two horses or mares and one foal; the same to take effect after the sowing-season of the ensuing year, 1710, giving them time to rid themselves of their horses in excess of said number, after which they will be required to kill any of such excess as may remain in their possession." * Many other ordinances, if not equally preposterous, are equally stringent; such, for example, as that of the intendant Bigot, in which, with a view of promoting agriculture and protecting the morals of the farmers by saving them from the temptations of cities, he proclaims to them: "We prohibit and forbid you to remove to this town (*Quebec*) under any pretext whatever without our permission in writing, on pain of being expelled and sent back to your farms, your furniture and goods confiscated, and a fine of fifty livres laid on you for the benefit of the hospitals. And, furthermore, we forbid all inhabitants of the city to let houses or rooms to persons coming from the country on pain of a fine of a hundred livres, also applicable to the hospitals." † At about the same time a royal edict, designed to prevent the undue subdivision of farms, forbade the country people, except such as were authorized to live in villages, to build a house or barn on any piece of land less than one and a half arpents wide and thirty arpents long; ‡ while a subsequent ordinance of the intendant commands the immediate demolition of certain houses built in contravention of the edict.§

The spirit of absolutism is everywhere apparent. "It is of very great consequence," writes the intendant De Meulle, "that the people should not be left at liberty to speak their minds."‖

* *Edits et Ordonnances*, II. 273.

† Ibid., II. 399. ‡ Ibid., I. 585. § Ibid., II. 400.

‖ "Il ne laisse pas d'être de très grande conséquence de ne pas laisser la liberté au peuple de dire son sentiment." — *De Meulle au Ministre*, 1685.

Hence public meetings were jealously restricted. Even those held by parishioners under the eye of the *curé* to estimate the cost of a new church seem to have required a special license from the intendant. During a number of years a meeting of the principal inhabitants of Quebec was called in spring and autumn by the Council to discuss the price and quality of bread, the supply of firewood, and other similar matters. The Council commissioned two of its members to preside at these meetings, and on hearing their report took what action it thought best. Thus, after the meeting held in February, 1686, it issued a decree, in which, after a long and formal preamble, it solemnly ordained "that besides white-bread and light brown-bread, all bakers shall hereafter make dark brown-bread whenever the same shall be required." * Such assemblies, so controlled, could scarcely, one would think, wound the tenderest susceptibilities of authority; yet there was evident distrust of them, and after a few years this modest shred of self-government is seen no more. The syndic, too, that functionary whom the people of the towns were at first allowed to choose, under the eye of the authorities, was conjured out of existence by a word from the king. Seignior, *censitaire*, and citizen were prostrate alike in flat subjection to the royal will. They were not free even to go home to France. No inhabitant of Canada, man or woman, could do so without leave; and several intendants express their belief that without this precaution there would soon be a falling off in the population.

In 1671 the Council issued a curious decree. One Paul Dupuy had been heard to say that there is nothing like righting one's self, and that when the English cut off the head of Charles I. they did a good thing, with other discourse to the like effect. The Council declared him guilty of speaking ill of royalty in the person of the king of England and uttering words tending to sedition. He was condemned to be dragged from prison by the public executioner, and led in his shirt, with a rope about his neck, and a torch in his hand, to the gate of the Château St. Louis, there to beg pardon of the king;

* *Edits et Ordonnances*, II. 112.

thence to the pillory of the Lower Town to be branded with a *fleur-de-lis* on the cheek, and set in the stocks for half an hour; then to be led back to prison, and put in irons "till the information against him shall be completed." *

If irreverence to royalty was thus rigorously chastised, irreverence to God was threatened with still sharper penalties. Louis XIV., ever haunted with the fear of the Devil, sought protection against him by his famous edict against swearing, duly registered on the books of the Council at Quebec. "It is our will and pleasure," says this pious mandate, "that all persons convicted of profane swearing or blaspheming the name of God, the most Holy Virgin, his mother, or the saints, be condemned for the first offence to a pecuniary fine according to their possessions and the greatness and enormity of the oath and blasphemy; and if those thus punished repeat the said oaths, then for the second, third, and fourth time they shall be condemned to a double, triple, and quadruple fine; and for the fifth time, they shall be set in the pillory on Sunday or other festival days, there to remain from eight in the morning till one in the afternoon exposed to all sorts of opprobrium and abuse, and be condemned besides to a heavy fine; and for the sixth time, they shall be led to the pillory and there have the upper lip cut with a hot iron; and for the seventh time, they shall be led to the pillory and have the lower lip cut; and if, by reason of obstinacy and inveterate bad habit, they continue after all these punishments to utter the said oaths and blasphemies, it is our will and command that they have the tongue completely cut out, so that thereafter they cannot utter them again." † All those who should hear anybody swear were further required to report the fact to the nearest judge within twenty-four hours, on pain of fine.

This is far from being the only instance in which the temporal power lends aid to the spiritual. Among other cases, the following is worth mentioning: Louis Gaboury, an inhabitant of the island of Orleans, charged with eating meat in Lent without asking leave of the priest, was condemned by the local judge

* *Jugements et Délibérations du Conseil Supérieur.*

† *Edit du Roy contre les Jureurs et Blasphémateurs, du* 30 *Juillet,* 1666. See *Edits et Ordonnances,* I. 62.

to be tied three hours to a stake in public, and then led to the door of the chapel, there on his knees with head bare and hands clasped to ask pardon of God and the king. The culprit appealed to the Council, who revoked the sentence and imposed only a fine.*

The due subordination of households had its share of attention. Servants who deserted their masters were to be set in the pillory for the first offence, and whipped and branded for the second; while any person harboring them was to pay a fine of twenty francs.† On the other hand, nobody was allowed to employ a servant without a license.‡

In case of heinous charges, torture of the accused was permitted under the French law; and it was sometimes practised in Canada. Condemned murderers and felons were occasionally tortured before being strangled; and the dead body, enclosed in a kind of iron cage, was left hanging for months at the top of Cape Diamond, a terror to children and a warning to evil-doers. Yet, on the whole, Canadian justice, tried by the standard of the time, was neither vindictive nor cruel.

In reading the voluminous correspondence of governors and intendants, the Minister and the king, nothing is more apparent than the interest with which, in the early part of his reign, Louis XIV. regarded his colony. One of the faults of his rule is the excess of its benevolence; for not only did he give money to support parish priests, build churches, and aid the seminary, the Ursulines, the missions, and the hospitals, but he established a fund destined, among other objects, to relieve indigent persons, subsidized nearly every branch of trade and industry, and in numberless other instances did for the colonists what they would far better have learned to do for themselves.

Meanwhile the officers of government were far from suffering from an excess of royal beneficence. La Hontan says that the local governor of Three Rivers would die of hunger if, besides his pay, he did not gain something by trade with the Indians; and that Perrot, local governor of Montreal, with one

* *Histoire du Droit Canadien*, 163.

† *Règlement de Police*, 1676.

‡ *Edits et Ordonnances*, II. 53.

thousand crowns of salary, traded to such purpose that in a few years he made fifty thousand crowns. This trade, it may be observed, was in violation of the royal edicts. The pay of the governor-general varied from time to time. When La Poterie wrote it was twelve thousand francs a year, besides three thousand which he received in his capacity of local governor of Quebec.* This would hardly tempt a Frenchman of rank to expatriate himself; and yet some at least of the governors came out to the colony for the express purpose of mending their fortunes; indeed, the higher nobility could scarcely, in time of peace, have other motives for going there. The Court and the army were their element, and to be elsewhere was banishment. We shall see hereafter by what means they sought compensation for their exile in Canadian forests. Loud complaints sometimes found their way to Versailles. A memorial addressed to the Regent Duke of Orleans, immediately after the king's death, declares that the Ministers of State, who have been the real managers of the colony, have made their creatures and relations governors and intendants, and set them free from all responsibility. High colonial officers, pursues the writer, come home rich, while the colony languishes almost to perishing.† As for lesser offices, they were multiplied to satisfy needy retainers, till lean and starving Canada was covered with official leeches, sucking, in famished desperation, at her bloodless veins.

The whole system of administration centred in the king, who, to borrow the formula of his edicts, "in the fulness of our power and our certain knowledge," was supposed to direct the whole machine, from its highest functions to its pettiest

* In 1674 the governor-general received 20,718 francs, out of which he was to pay 8,718 to his guard of twenty men and officers. — *Ordonnance du Roy*, 1675. Yet in 1677, in the *Etat de la Dépense que le Roy veut et ordonne estre faite*, etc., the total pay of the governor-general is set down at 3,000 francs, and so also in 1681, 1682, and 1687. The local governor of Montreal was to have 1,800 francs, and the governor of Three Rivers 1,200. It is clear, however, that this *Etat de dépense* is not complete, as there is no provision for the intendant. The first councillor received 500 francs, and the rest 300 francs each, equal in Canadian money to 400. An ordinance of 1676 gives the intendant 12,000 francs. It is tolerably clear that the provision of 3,000 francs for the governor-general was meant only to apply to his capacity of local governor of Quebec.

‡ *Mémoire addressé au Régent*, 1715.

intervention in private affairs. That this theory, like all extreme theories of government, was an illusion, is no fault of Louis XIV. Hard-working monarch as he was, he spared no pains to guide his distant colony in the paths of prosperity. The prolix letters of governors and intendants were carefully studied; and many of the replies, signed by the royal hand, enter into details of surprising minuteness. That the king himself wrote these letters is incredible; but in the early part of his reign he certainly directed and controlled them. At a later time, when more absorbing interests engrossed him, he could no longer study in person the long-winded despatches of his Canadian officers. They were usually addressed to the Minister of State, who caused abstracts to be made from them, for the king's use, and perhaps for his own.* The Minister or the Minister's secretary could suppress or color as he or those who influenced him saw fit.

In the latter half of his too long reign, when cares, calamities, and humiliations were thickening around the king, another influence was added to make the theoretical supremacy of his royal will more than ever a mockery. That prince of annalists, Saint-Simon, has painted Louis XIV. ruling his realm from the bedchamber of Madame de Maintenon; seated with his Minister at a small table beside the fire, the king in an arm-chair, the Minister on a stool with his bag of papers on a second stool near him. In another arm-chair, at another table, on the other side of the fire, sat the sedate favorite, busy to all appearance with a book or a piece of tapestry, but listening to everything that passed. "She rarely spoke," says Saint-Simon, "except when the king asked her opinion, which he often did; and then she answered with great deliberation and gravity. She never or very rarely showed a partiality for any measure, still less for any person, but she had an understanding with the Minister, who never dared do otherwise than she wished. Whenever any favor or appointment was in question, the business was settled between them beforehand. She would send to the Minister that she wanted to speak to him,

* Many of these abstracts are still preserved in the archives of the Marine and Colonies.

and he did not dare bring the matter on the carpet till he had received her orders." Saint-Simon next recounts the subtle methods by which Maintenon and the Minister, her tool, beguiled the king to do their will, while never doubting that he was doing his own. "He thought," concludes the annalist, "that it was he alone who disposed of all appointments, while in reality he disposed of very few indeed, except on the rare occasions when he had taken a fancy to somebody or when somebody whom he wanted to favor had spoken to him in behalf of somebody else." *

Add to all this the rarity of communication with the distant colony. The ships from France arrived at Quebec in July, August, or September, and returned in November. The machine of Canadian government, wound up once a year, was expected to run unaided at least a twelvemonth. Indeed, it was often left to itself for two years, such was sometimes the tardiness of the overburdened government in answering the despatches of its colonial agents. It is no matter of surprise that a writer well versed in its affairs calls Canada the "country of abuses." †

FRANCIS PARKMAN.

* *Mémoires du Duc de Saint-Simon*, XIII. 38, 39 (Cheruel, 1857). Saint-Simon, notwithstanding the independence of his character, held a high position at Court, and his acute and careful observation, joined to his familiar acquaintance with ministers and other functionaries, both in and out of office, gives a rare value to his matchless portraitures.

† *Etat présent du Canada*, 1758.